



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2184

Introduced 10/20/2015, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-15
35 ILCS 10/5-55

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that the Department of Commerce and Economic Opportunity shall not enter into any new Agreements under the Act, nor shall it issue any certificates of verification under the Act, in any State fiscal year if an Act containing appropriations for the Department of Commerce and Economic Opportunity for that fiscal year has not become law. Removes a provision from the Act providing that failure to submit a copy of the certificate of verification with the taxpayer's tax return shall not invalidate a claim for a credit. Effective immediately.

LRB099 14566 HLH 38692 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Sections 5-15 and 5-55 as
6 follows:

7 (35 ILCS 10/5-15)

8 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
9 forth in this Act, a Taxpayer is entitled to a Credit against
10 or, as described in subsection (g) of this Section, a payment
11 towards taxes imposed pursuant to subsections (a) and (b) of
12 Section 201 of the Illinois Income Tax Act that may be imposed
13 on the Taxpayer for a taxable year beginning on or after
14 January 1, 1999, if the Taxpayer is awarded a Credit by the
15 Department under this Act for that taxable year.

16 (a) The Department shall make Credit awards under this Act
17 to foster job creation and retention in Illinois.

18 (b) A person that proposes a project to create new jobs in
19 Illinois must enter into an Agreement with the Department for
20 the Credit under this Act.

21 (c) The Credit shall be claimed for the taxable years
22 specified in the Agreement.

23 (d) The Credit shall not exceed the Incremental Income Tax

1 attributable to the project that is the subject of the
2 Agreement.

3 (e) Nothing herein shall prohibit a Tax Credit Award to an
4 Applicant that uses a PEO if all other award criteria are
5 satisfied.

6 (f) In lieu of the Credit allowed under this Act against
7 the taxes imposed pursuant to subsections (a) and (b) of
8 Section 201 of the Illinois Income Tax Act for any taxable year
9 ending on or after December 31, 2009, the Taxpayer may elect to
10 claim the Credit against its obligation to pay over withholding
11 under Section 704A of the Illinois Income Tax Act.

12 (1) The election under this subsection (f) may be made
13 only by a Taxpayer that (i) is primarily engaged in one of
14 the following business activities: water purification and
15 treatment, motor vehicle metal stamping, automobile
16 manufacturing, automobile and light duty motor vehicle
17 manufacturing, motor vehicle manufacturing, light truck
18 and utility vehicle manufacturing, heavy duty truck
19 manufacturing, motor vehicle body manufacturing, cable
20 television infrastructure design or manufacturing, or
21 wireless telecommunication or computing terminal device
22 design or manufacturing for use on public networks and (ii)
23 meets the following criteria:

24 (A) the Taxpayer (i) had an Illinois net loss or an
25 Illinois net loss deduction under Section 207 of the
26 Illinois Income Tax Act for the taxable year in which

1 the Credit is awarded, (ii) employed a minimum of 1,000
2 full-time employees in this State during the taxable
3 year in which the Credit is awarded, (iii) has an
4 Agreement under this Act on December 14, 2009 (the
5 effective date of Public Act 96-834), and (iv) is in
6 compliance with all provisions of that Agreement;

7 (B) the Taxpayer (i) had an Illinois net loss or an
8 Illinois net loss deduction under Section 207 of the
9 Illinois Income Tax Act for the taxable year in which
10 the Credit is awarded, (ii) employed a minimum of 1,000
11 full-time employees in this State during the taxable
12 year in which the Credit is awarded, and (iii) has
13 applied for an Agreement within 365 days after December
14 14, 2009 (the effective date of Public Act 96-834);

15 (C) the Taxpayer (i) had an Illinois net operating
16 loss carryforward under Section 207 of the Illinois
17 Income Tax Act in a taxable year ending during calendar
18 year 2008, (ii) has applied for an Agreement within 150
19 days after the effective date of this amendatory Act of
20 the 96th General Assembly, (iii) creates at least 400
21 new jobs in Illinois, (iv) retains at least 2,000 jobs
22 in Illinois that would have been at risk of relocation
23 out of Illinois over a 10-year period, and (v) makes a
24 capital investment of at least \$75,000,000;

25 (D) the Taxpayer (i) had an Illinois net operating
26 loss carryforward under Section 207 of the Illinois

1 Income Tax Act in a taxable year ending during calendar
2 year 2009, (ii) has applied for an Agreement within 150
3 days after the effective date of this amendatory Act of
4 the 96th General Assembly, (iii) creates at least 150
5 new jobs, (iv) retains at least 1,000 jobs in Illinois
6 that would have been at risk of relocation out of
7 Illinois over a 10-year period, and (v) makes a capital
8 investment of at least \$57,000,000; or

9 (E) the Taxpayer (i) employed at least 2,500
10 full-time employees in the State during the year in
11 which the Credit is awarded, (ii) commits to make at
12 least \$500,000,000 in combined capital improvements
13 and project costs under the Agreement, (iii) applies
14 for an Agreement between January 1, 2011 and June 30,
15 2011, (iv) executes an Agreement for the Credit during
16 calendar year 2011, and (v) was incorporated no more
17 than 5 years before the filing of an application for an
18 Agreement.

19 (1.5) The election under this subsection (f) may also
20 be made by a Taxpayer for any Credit awarded pursuant to an
21 agreement that was executed between January 1, 2011 and
22 June 30, 2011, if the Taxpayer (i) is primarily engaged in
23 the manufacture of inner tubes or tires, or both, from
24 natural and synthetic rubber, (ii) employs a minimum of
25 2,400 full-time employees in Illinois at the time of
26 application, (iii) creates at least 350 full-time jobs and

1 retains at least 250 full-time jobs in Illinois that would
2 have been at risk of being created or retained outside of
3 Illinois, and (iv) makes a capital investment of at least
4 \$200,000,000 at the project location.

5 (1.6) The election under this subsection (f) may also
6 be made by a Taxpayer for any Credit awarded pursuant to an
7 agreement that was executed within 150 days after the
8 effective date of this amendatory Act of the 97th General
9 Assembly, if the Taxpayer (i) is primarily engaged in the
10 operation of a discount department store, (ii) maintains
11 its corporate headquarters in Illinois, (iii) employs a
12 minimum of 4,250 full-time employees at its corporate
13 headquarters in Illinois at the time of application, (iv)
14 retains at least 4,250 full-time jobs in Illinois that
15 would have been at risk of being relocated outside of
16 Illinois, (v) had a minimum of \$40,000,000,000 in total
17 revenue in 2010, and (vi) makes a capital investment of at
18 least \$300,000,000 at the project location.

19 (1.7) Notwithstanding any other provision of law, the
20 election under this subsection (f) may also be made by a
21 Taxpayer for any Credit awarded pursuant to an agreement
22 that was executed or applied for on or after July 1, 2011
23 and on or before March 31, 2012, if the Taxpayer is
24 primarily engaged in the manufacture of original and
25 aftermarket filtration parts and products for automobiles,
26 motor vehicles, light duty motor vehicles, light trucks and

1 utility vehicles, and heavy duty trucks, (ii) employs a
2 minimum of 1,000 full-time employees in Illinois at the
3 time of application, (iii) creates at least 250 full-time
4 jobs in Illinois, (iv) relocates its corporate
5 headquarters to Illinois from another state, and (v) makes
6 a capital investment of at least \$4,000,000 at the project
7 location.

8 (2) An election under this subsection shall allow the
9 credit to be taken against payments otherwise due under
10 Section 704A of the Illinois Income Tax Act during the
11 first calendar year beginning after the end of the taxable
12 year in which the credit is awarded under this Act.

13 (3) The election shall be made in the form and manner
14 required by the Illinois Department of Revenue and, once
15 made, shall be irrevocable.

16 (4) If a Taxpayer who meets the requirements of
17 subparagraph (A) of paragraph (1) of this subsection (f)
18 elects to claim the Credit against its withholdings as
19 provided in this subsection (f), then, on and after the
20 date of the election, the terms of the Agreement between
21 the Taxpayer and the Department may not be further amended
22 during the term of the Agreement.

23 (g) A pass-through entity that has been awarded a credit
24 under this Act, its shareholders, or its partners may treat
25 some or all of the credit awarded pursuant to this Act as a tax
26 payment for purposes of the Illinois Income Tax Act. The term

1 "tax payment" means a payment as described in Article 6 or
2 Article 8 of the Illinois Income Tax Act or a composite payment
3 made by a pass-through entity on behalf of any of its
4 shareholders or partners to satisfy such shareholders' or
5 partners' taxes imposed pursuant to subsections (a) and (b) of
6 Section 201 of the Illinois Income Tax Act. In no event shall
7 the amount of the award credited pursuant to this Act exceed
8 the Illinois income tax liability of the pass-through entity or
9 its shareholders or partners for the taxable year.

10 (h) Notwithstanding any other provision of law, the
11 Department shall not enter into any new Agreements under this
12 Act, nor shall it issue any certificates of verification under
13 this Act, in any State fiscal year if "An Act making
14 appropriations" containing appropriations for the ordinary and
15 contingent expenses of the Department for that fiscal year has
16 not become law.

17 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
18 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
19 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

20 (35 ILCS 10/5-55)

21 Sec. 5-55. Certificate of verification; submission to the
22 Department of Revenue. A Taxpayer claiming a Credit under this
23 Act shall submit to the Department of Revenue a copy of the
24 Director's certificate of verification under this Act for the
25 taxable year. ~~However, failure to submit a copy of the~~

1 ~~certificate with the Taxpayer's tax return shall not invalidate~~
2 ~~a claim for a Credit.~~

3 For a Taxpayer to be eligible for a certificate of
4 verification, the Taxpayer shall provide proof as required by
5 the Department prior to the end of each calendar year,
6 including, but not limited to, attestation by the Taxpayer
7 that:

8 (1) The project has substantially achieved the level of
9 new full-time jobs specified in its Agreement.

10 (2) The project has substantially achieved the level of
11 annual payroll in Illinois specified in its Agreement.

12 (3) The project has substantially achieved the level of
13 capital investment in Illinois specified in its Agreement.

14 (Source: P.A. 91-476, eff. 8-11-99.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.